

**ENTERED**

March 24, 2025

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

ROBERT C. FONTENOT,

Plaintiff,

v.

LELAND C. DUDEK,<sup>1</sup>*Acting Commissioner of the Social Security  
Administration,*

Defendant.

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CIVIL ACTION NO. H-24-532

**MEMORANDUM AND OPINION ADOPTING MEMORANDUM  
AND RECOMMENDATION**

Robert C. Fontenot filed this case under the Social Security Act, 42 U.S.C. § 405(g), seeking review of the Commissioner's final decision denying his request for disability and disability insurance benefits under Title II of the Act, 42 U.S.C. § 423(d)(1)(A). Fontenot and the Commissioner filed cross-motions for summary judgment. (Docket Entry Nos. 5, 10). The court has reviewed the Memorandum and Recommendation of Magistrate Judge Richard W. Bennett recommending granting both motions in part and denying them in part and remanding to the Commissioner for further administrative proceedings. (Docket Entry No. 12). No objections to Judge Bennett's ruling have been filed. After considering the pleadings, the record, and the applicable law, the court adopts Judge Bennett's memorandum and recommendation.

Fontenot filed a claim for disability insurance benefits on November 2, 2021, alleging disability beginning April 3, 2021. Following the denial of his claims and a subsequent request for reconsideration, Fontenot requested a hearing before an Administrative Law Judge. Fontenot

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<sup>1</sup> Leland C. Dudek became the Acting Commissioner of Social Security in February 2025. Dudek is "automatically substituted" as the defendant in this suit. FED. R. CIV. P. 25(d); *see also* 42 U.S.C. § 405(g) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.").

appeared with counsel at a hearing on July 18, 2023, at which he and a vocational expert, Jessica Earl, testified. On August 2, 2023, the ALJ issued a decision denying Fontenot the benefits he sought. Upon denial of review, the ALJ's decision became the final decision of the Commissioner. *See* 20 C.F.R. §§ 404.981, 416.1481.

In a detailed opinion, the magistrate judge analyzed the record and the law, recommending granting Fontenot's motion for summary judgment with respect to the ALJ's Residual Functional Capacity analysis and otherwise denying the motion. The judge recommended denying the Commissioner's motion for summary judgment with respect to the ALJ's Residual Functional Capacity analysis and otherwise granting the motion. The judge further recommended that the case be remanded for further administrative proceedings.

The court finds that the magistrate judge properly considered the evidence and correctly applied the applicable law. The memorandum and recommendation of Judge Bennett is adopted as this court's memorandum and opinion. An order of remand to the Commissioner is separately entered.

SIGNED on March 21, 2025, at Houston, Texas.

A handwritten signature in black ink, appearing to read 'Lee H. Rosenthal', is written over a horizontal line.

Lee H. Rosenthal  
Senior United States District Judge